

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7691

Investigation into Washington Electric Cooperative, )  
Inc.'s tariff filing requesting an overall rate increase )  
in the amount of 23.81%, to take effect January 1, )  
2011 )

Hearing at  
Montpelier, Vermont  
October 24, 2011

Order entered: 11/2/2011

PRESENT: Ed McNamara, Esq., Hearing Officer

APPEARANCES: Geoffrey Commons, Esq.  
For Vermont Department of Public Service

Joshua R. Diamond, Esq.  
Diamond & Robinson, P.C.  
For Washington Electric Cooperative, Inc.

**I. INTRODUCTION**

In this Proposal for Decision, I recommend that the Vermont Public Service Board ("Board") approve, in its entirety, a Memorandum of Understanding ("MOU") between Washington Electric Cooperative, Inc. ("WEC") and the Vermont Department of Public Service ("Department") that was filed with the Board on August 30, 2011.<sup>1</sup> The MOU, if approved, would resolve all issues in this docket. In the MOU, the parties agree that a 19.44% rate increase, effective for service rendered on or after January 1, 2011, results in just and reasonable rates.

---

1. The MOU has been admitted into evidence as Exh. MOU.

## **II. PROCEDURAL HISTORY**

On November 15, 2010, WEC filed with the Board proposed tariff revisions requesting an overall increase in its rates in the amount of 23.81%, to take effect January 1, 2011 (Tariff Filing No. 8200).

On December 16, 2010, the Department informed the Board that it had reviewed WEC's proposed tariff filing and recommended that the Board open an investigation into the proposed rate increase request.

On December 23, 2010, the Board opened an investigation and appointed me to serve as the Hearing Officer in this proceeding. I held a prehearing conference in this docket on January 4, 2011.

On January 6, 2011, WEC advised the Board that it had waived the seven-month deadline for a final order pursuant to 30 V.S.A. § 227.<sup>2</sup>

On February 15, 2011, WEC filed direct testimony supporting its rate increase request.

I conducted a public hearing on March 15, 2011, in East Montpelier, Vermont. Approximately two dozen members of the public attended the hearing. These individuals raised concerns regarding the impact of the rate increase on ratepayers. Additional information regarding the public comments is included in Section IV, below.

On August 30, 2011, the Department and WEC filed an MOU that settles all outstanding issues in this docket (admitted during the subsequent technical hearing as "Exhibit MOU").

On October 7, 2011, the Clerk of the Board issued a memorandum requesting additional information regarding the MOU. On October 24, 2011, WEC filed responses to the questions raised in the October 7 memorandum (the responses were admitted during the subsequent technical hearing as "Exhibit Board-1").

On October 24, 2011, I held a technical hearing in this Docket.

Pursuant to 30 V.S.A. § 8, and based on the record and evidence before me, I hereby report the following findings and conclusions to the Board.

---

2. Letter from Joshua Diamond, Esq., for WEC, to Susan Hudson, Clerk of the Board, dated January 6, 2011.

### **III. FINDINGS**

1. The MOU provides that an increase in WEC's annual revenues from retail customers of 19.44% results in just and reasonable rates. Exh. MOU at 1.

2. WEC has not had a rate increase in eleven years. Patt pf. at 3.

3. The major factors that are responsible for the rate increase are as follows:

a. The contract rate for renewable energy credits ("RECs") associated with the Coventry Landfill Gas Generation Facility dropped from \$51.50 per MWh in the Test Year of 2009 to \$26.90 in 2010. Market projections provided to WEC indicated that the market rate for RECs was continuing to decline. This reduction in REC market rates equates to a pro forma reduction in revenues of \$1,315,909, or 51.3% of the total rate increase requested.

b. An increase in Operations and Maintenance expense due to increased labor costs, including benefits, as well as an increase in spending on right-of-way management. WEC experienced a significant increase in pension plan costs from the test year 2009 to 2010.

c. WEC's purchase power costs increased from \$4,662,094 in the 2009 test year to \$5,289,933 in the rate year, an increase of \$627,839. These increased costs are primarily due to increased transmission costs, increased wholesale power costs, and increased capacity costs due to the regional Forward Capacity Market.

Exh. Board-1 at 1-2; Willette pf. at 5, 10; Richards pf. at 6.

4. The reduction of 4.37% from WEC's original filing of 23.81% to the now proposed 19.44% is comprised of the following adjustments that were agreed upon by WEC and the Department:

a. WEC's original filing included a formula error (identified by WEC) that results in a reduction to power supply costs of 1.89%.

b. WEC's original filing relied upon information provided by the Rural Utilities Service to establish a depreciation rate of 5% for the Coventry Landfill Gas Generation Facility. WEC agreed to lower its depreciation rate associated with this asset to 4%, resulting in a reduction of 1.12%.

c. WEC's initial filing used a one-year capital vs. expense payroll ratio. WEC has agreed to use an average ratio, resulting in a reduction of 0.5%.

d. A variance of 0.86% was agreed to by both parties in an effort to forego further rate-case costs.

Exh. Board-1 at 2.

5. The MOU provides that revenues collected in excess of the 19.44% rate increase will be credited to WEC's members, or refunded to prior members, on the first complete billing cycle following final Board approval of the MOU. Exh. MOU at 2.

6. WEC's lender, the Rural Utilities Service, requires both a Net Times Interest Earned Ratio ("TIER") of 1.25 and an Operating TIER of 1.10 (it takes a minimum Net TIER of 1.50 to produce the minimum 1.10 Operating TIER). Exh. Board-1 at 2.

7. The MOU states that the 19.44% rate increase is designed to allow WEC to maintain a 1.53 Net TIER and 1.15 Operating TIER in 2011. In the event that WEC's margins are greater than the amount required to meet the Net Tier and Operating TIER benchmarks by at least \$25,000, then such excess margins will be placed in a deferred revenue account for use in the 2012 rate year. Exh. MOU at 2.

8. The MOU provides that WEC may amortize up to \$25,000 of the cost of this rate case in 2012 if needed to meet its Operating TIER and/or Net TIER lender requirements in 2011. Exh. MOU at 3.

9. The MOU states that WEC receives \$241,624 in annual revenues from demand-side management and hot water heater accounts that are currently considered regulatory liabilities pursuant to Board memoranda issued on February 23, 2007, and September 8, 2006. Starting January 1, 2011, and going forward, WEC may incorporate these funds into its revenues and discontinue tracking and recording these monies as regulatory liabilities. Exh. MOU at 3.

10. WEC has a regulatory liability balance of \$166,464 for hot water heater accounts as of December 31, 2010. The MOU provides that WEC shall amortize the balance of this account in 2011. Exh. MOU at 3.

11. The MOU requires that WEC's depreciation schedule for capital expenditures related to the Coventry Landfill Gas Generation Facility will be 4% effective January 1, 2011. Exh. MOU at 3.

12. The MOU states that WEC's wholly-owned subsidiary, the Coventry Clean Energy Corporation ("CCEC"), is responsible for operating the Coventry Landfill Gas Generation

Facility. CCEC recorded a net loss of \$29,779 during the test year of 2009. This net loss had an impact of 0.28% on the rate increase. WEC will work with CCEC to address CCEC's operating deficit. Under the terms of the MOU, WEC will submit a proposal to the Department by January 3, 2012, describing how WEC and CCEC intend to address CCEC's operating deficit. Exh. MOU at 3; exh. Board-1 at 3.

#### **IV. DISCUSSION OF ISSUES RAISED BY THE PUBLIC COMMENTS**

The Board received approximately 40 written public comments in this Docket, and approximately two dozen members of the public attended the public hearing held on March 15. Although public comments are not part of the evidentiary record, such comments are valuable in raising issues for the Board to consider during the case, and as a basis to require additional information from WEC. Below, I address the primary issues that were raised in the public comments.

##### **Significance of the Rate Increase**

Many commenters expressed concern at the size of the rate increase and the economic impact associated with the increase.

I recognize that the rate increase recommended for approval in this proposal for decision, while smaller than that originally requested by WEC, is still significant. Such a large increase will have an impact on all WEC members, but is especially difficult for members on a fixed income.

However, WEC has not had a rate increase in eleven years, and there are several factors that led to the need for the rate increase, including a reduction in REC prices on a regional basis, which is a factor that WEC cannot control. For several years, WEC members have benefitted from the sale of RECs associated with the Coventry Landfill Gas Generation Facility and the revenues from the sale of these RECs have enabled WEC to offset any increase in costs over the last several years. The value of RECs will continue to have an impact on rates. Pursuant to state law, the rates charged by WEC must be just and reasonable; in addition to protecting customers from unfair rates, this standard also requires that WEC be entitled to recover its reasonable costs

associated with providing service. WEC has demonstrated that its costs are reasonable and it is entitled to rates that allow it to earn sufficient revenue to cover these costs.

In addition, WEC has a significant percentage of residential customers; it typically costs more to serve many small customers than a few large customers. WEC is a rural utility with a small number of customers per each mile of line to serve customers. These factors increase costs for WEC members.

#### Better Pacing of Rate Increases

Many commenters were unhappy that WEC requested one large increase rather than smaller, more frequent rate increases that would have been easier for members to bear. WEC has demonstrated that REC prices dropped more quickly and more significantly than expected, leading to the need for a significant rate increase. In addition, if the rate increase were phased-in over a number of years WEC customers would end up paying additional costs.<sup>3</sup>

#### Reduced Labor Costs

Some commenters suggested that the Board should require WEC to reduce benefits and wages for its employees and examine other options for reducing expenses. At the technical hearing, WEC indicated that it has discussed reducing wages with its employees; however, because there is an existing contract, any reductions in benefits or wages must be agreed to voluntarily and the union had not agreed to such a reduction.<sup>4</sup> The existing contract ends in 2012 and WEC represents that it will be renegotiating the contract in the upcoming months;<sup>5</sup> I expect that WEC will work to develop a contract that is fair and reasonable for both its employees and its ratepayers.

#### Incentives for Energy Efficiency

Some commenters suggested that an increase in rates due in part to reduced sales as a result of increased energy efficiency sends a mixed message and questioned whether WEC should continue to promote energy efficiency measures.

---

3. Tr. 10/24/11 at 18-19 (Patt).

4. Tr. 10/24/11 at 17 (Patt).

5. Tr. 10/24/11 at 17 (Patt).

Although decreased sales do have an impact on a utility's revenue requirement, efficiency measures provide benefits to ratepayers, either directly through reduced electricity costs due to reduced consumption, or indirectly through the system benefits associated with energy efficiency measures.<sup>6</sup> Although the promotion of energy efficiency may produce an increase in the rates paid by electric customers, the electric bills (that is the total amount paid for electric service) are reduced.

In addition to the economic benefits associated with energy efficiency, such measures also provide societal benefits, including reduced air emissions associated with generation. Accordingly, the benefits of energy efficiency measures outweigh the impacts, especially for those customers who utilize energy efficiency services. Finally, the promotion of energy efficiency is a state policy,<sup>7</sup> and it is appropriate for WEC to continue to provide its members with information about energy efficiency services.

## V. CONCLUSION

On the basis of my review of the MOU and the evidence in this proceeding, I conclude that the settlement embodied in the MOU will result in just and reasonable rates. Therefore, I recommend that the Board approve the MOU in its entirety and allow the proposed rate increase to take effect for service rendered on or after January 1, 2011.

The parties have waived their right to service of the Proposal for Decision in accordance with 3 V.S.A. § 811.

Dated at Montpelier, Vermont, this 31<sup>st</sup> day of October, 2011.

s/Ed McNamara  
Ed McNamara, Esq.  
Hearing Officer

---

6. For a description of the system benefits of energy efficiency, see, *Order RE: Energy Efficiency Utility Electric Budgets for Demand Resources Plan*, EEU-2010-06, Order of 8/1/11 at 11-12. (Available at <http://psb.vermont.gov/sites/psb/files/orders/2011/EEU-2010-06%20DRP%20and%20AttachA.pdf>.)

7. See, 30 V.S.A. § 209(d).

**VI. ORDER**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The Findings and recommendation of the Hearing Officer are adopted.
2. The Memorandum of Understanding between the Vermont Department of Public Service and Washington Electric Cooperative, Inc., filed on August 30, 2011, is approved.
3. A rate increase by Washington Electric Cooperative, Inc., of 19.44%, is just and reasonable.
4. Washington Electric Cooperative, Inc., shall file compliance tariffs within two weeks of the issuance of this Order.
5. Revenues collected in excess of the 19.44% rate increase shall be credited to Washington Electric Cooperative, Inc.'s members, or refunded to prior members, on the first complete billing cycle following issuance of this Order.



Dated at Montpelier, Vermont, this 2<sup>nd</sup> day of November, 2011.

<u>s/James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: November 2, 2011

ATTEST: s/Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*